

### **REMARKS**

Applicants hereby traverse the outstanding objections and rejections, and request reconsideration and withdrawal in light of the amendments and remarks contained herein. New claims 21-29 have been provided for consideration. Claims 1-10 have been canceled without prejudice. Claims 11-29 are pending in this application.

#### **Objections to the Drawings**

FIGURE 1 has been amended to remove reference numbers 103 and 108. FIGURE 2 has been amended to remove reference number 200. FIGURE 3 has been amended to remove reference numbers 305, 306, 309, and 311. FIGURE 4 has been amended to add the reference numbers 409-414 described at page 10 of the specification. As each identified instance of informality has been corrected with a corresponding proposed amendment or amendment to the specification, Applicants believe that the objection to the drawings has been overcome, and that this objection should be withdrawn.

#### **Objection to the Specification**

The specification has been amended to include the serial number of the commonly assigned co-pending application. The specification has been amended to include updated information with respect to the referenced application. Thus, Applicants believe that the objection to the specification has been overcome, and that this objection should be withdrawn.

#### **Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 1-10 and 18-20 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Specifically, the words “at least equals” in claims 1 and 18 are asserted by the Office Action as being unclear.

Claims 1-10 have been canceled, thus the 35 U.S.C. § 112 rejections to those claims are now moot. Claim 18 has been amended to Applicants have amended claim 18 to more accurately and precisely define the invention, by replacing “at least equal to” with “greater than or equal to,” as described in the specification at page 7 lines 21–27. The claims have been amended only for the purpose of complying with the requirements of 35 U.S.C. § 112,

second paragraph, and not for the purpose of narrowing their scope in the face of prior art. No new matter has been entered. Claims 19-20 are believed to be rejected as being dependent from rejected base claim 18. As each element of indefiniteness cited by the Office Action has been addressed with a corresponding amendment, Applicants respectfully request the rejection of claims 18-20 under 35 U.S.C. §112, second paragraph be withdrawn.

**Rejection under 35 U.S.C. § 102**

Claims 1-10 are rejected under 35 U.S.C. §102(b) as being anticipated by Kamae et al. ('077, hereinafter Kamae).

Claims 1-10 have been canceled, thus the 35 U.S.C. § 102(b) rejections to those claims are now moot.

**Rejection under 35 U.S.C. § 102**

Claims 11- 16 are rejected under 35 U.S.C. §102(b) as being anticipated by Harns ('977).

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicants respectfully assert that the rejection does not satisfy these requirements.

Claim 11, as amended, defines a system having means for evaluating elements of a plurality of subsets of said memory segment in row-fast order, wherein each said subset is at least two linear arrays of said elements. Other portions of claim 11 have been amended to correspond with this amendment. Claims 12 and 13 have also been amended to correspond with this amendment. No new matter has been entered, as support for these amendments can

be found, among other places, in the specification at page 7 line 21 to page 9 line 14. Harns does not disclose at least this limitation. Instead, Harns scans a memory array by scanning one row (or column) at a time (see column 19 lines 35–61), and does not appear capable of scanning a subset of at least two linear arrays. Thus, Harns does not teach all of the claimed limitations. Therefore, the Applicants respectfully assert that for the above reasons claim 11 is patentable over the 35 U.S.C. § 102 rejection of record.

Claims 12-16 depend from base claim 11, and thus inherit all limitations of claim 11. Each of claims 12-16 sets forth features and limitations not recited by Harns. Thus, the Applicants respectfully assert that for the above reasons claims 12-16 are patentable over the 35 U.S.C. § 102 rejection of record.

### **Rejection under 35 U.S.C. § 103**

Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over Harns in view of Kamae.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. §2143. Without conceding the first and second criteria, Applicants assert that the rejection does not satisfy the third criteria.

Base claim 11 is defined as described above. Harns does not disclose these limitations, as discussed above. Kamae is not relied upon in the Office Action as disclosing these limitations. Therefore, the combination of references does not teach all elements of the claimed invention.

Claim 17 depends from base claim 11, and thus inherit all limitations of claim 11. Claim 17 sets forth features and limitations not recited by the combination of Harns and Kamae. Thus, the Applicants respectfully assert that for the above reasons claim 17 is patentable over the 35 U.S.C. § 103 rejection of record.

**Rejection under 35 U.S.C. § 103**

Claim 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Harns in view of Kamae.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. §2143. Without conceding the first and second criteria, Applicants assert that the rejection does not satisfy the third criteria.

The Office Action admits that Harns does not teach physically remapping the memory segment in response to the declared failure condition. The Office Action attempts to cure this deficiency by introducing Kamae, which the Office Action alleges to teach having such a limitation. However, this combination, as presented, does not teach or suggest all limitations of the claimed invention.

Claim 18, as amended, defines a method that includes determining a number of said identified faulty ones of said evaluated elements in each of a plurality of subsets of said memory segment, and physically re-mapping said memory segment in response to said declared failure condition. Another portion of claim 18 has been amended to correspond with this amendment. No new matter has been entered, as support for these amendments can be found, among other places, in the specification at page 7 line 21 to page 9 line 14. The examiner has conceded that Harns does not teach remapping memory segments, and relies on the replacement of nxm memory arrays in Kamae to teach this limitation. However, an nxm array of *Kamae* can not be a “memory segment” as described by claim 18, because an nxm array of *Kamae* does not include a plurality of subsets. Thus, the combination of Harns and Kamae does not teach all of the claimed limitations. Therefore, the Applicants respectfully assert that for the above reasons claim 18 is patentable over the 35 U.S.C. § 103(a) rejection of record.

Claims 19-20 depends from base claim 18, and thus inherit all limitations of claim 18. Each of claims 19-20 sets forth features and limitations not recited by the combination of Harns and Kamae. Thus, the Applicants respectfully assert that for the above reasons claims 19-20 are patentable over the 35 U.S.C. § 103 rejection of record.

### **Conclusion**

New claims 21-29 contain no new matter and support for them can be found in the specification at, among other places, page 7 line 21 to page 9 line 14. The Applicants respectfully assert that claims 21-29 are also patentable over the prior art of record, as the new claims have limitations not taught by Harns, Kamae, or a combination of Harns and Kamae.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 10004546-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482737626US, in an envelope addressed to: MS Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: August 30, 2004

Typed Name: Phyllis Ewing

Signature: 

Respectfully submitted,

By 

Michael A. Papalas  
Attorney/Agent for Applicant(s)  
Reg. No.: 40,381

Date: August 30, 2004

Telephone No. (214) 855-8186

Attachments